

HOUSE BILL NO. 100

INTRODUCED BY JENT

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO GAME BIRDS AND SHOOTING PRESERVES; REVISING THE GENERAL DEFINITION OF "UPLAND GAME BIRDS" BY REMOVING QUAIL AND SPECIFYING RING-NECKED PHEASANTS; CONFORMING THE DEFINITION OF "GAME BIRDS" IN THE GAME BIRD FARM STATUTES TO THE GENERAL DEFINITION OF "UPLAND GAME BIRDS"; PROVIDING THAT POSSESSION, TRANSPORTATION, SALE, OR PURCHASE OF CAPTIVE-REARED MIGRATORY WATERFOWL IS NOT PROHIBITED; CONFORMING THE LAW GOVERNING VIOLATION OF CLOSED SEASON ON CERTAIN GAME BIRDS TO THE DEFINITION OF "UPLAND GAME BIRDS"; REVISING THE FEES FOR SHOOTING PRESERVE LICENSES; REVISING THE KINDS OF BIRDS THAT MAY BE HUNTED IN SHOOTING PRESERVES; ESTABLISHING MINIMUM AGE, NUMBER, AND MARKING REQUIREMENTS FOR RELEASED BIRDS; AUTHORIZING THE DEPARTMENT TO IMPOSE RESTRICTIONS ON NEW SHOOTING PRESERVE LICENSES; REVISING REGISTRATION BOOK REQUIREMENTS FOR SHOOTING PRESERVE OPERATORS; AMENDING SECTIONS 87-2-101, 87-3-111, 87-3-402, 87-4-503, 87-4-522, 87-4-524, 87-4-526, AND 87-4-901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-2-101, MCA, is amended to read:

**"87-2-101. Definitions.** As used in ~~this chapter, chapter 3, and 87-1-102, chapter 3, and this chapter,~~ unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

- 1           (ii) scents used only to mask human odor; or
- 2           (iii) types of scents that are approved by the commission for attracting game animals or game birds.
- 3           (3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals
- 4 may not be lawfully taken.
- 5           (4) "Commission" means the state fish, wildlife, and parks commission.
- 6           (5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine,
- 7 northern swift fox, and beaver.
- 8           (6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
- 9 mountain lion, bear, and wild buffalo.
- 10          (7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and
- 11 whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all
- 12 species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus micropterus
- 13 (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all
- 14 species of the genus lota (burbot or ling); and the species ictalurus punctatus (channel catfish).
- 15          (8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person
- 16 possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,
- 17 wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife
- 18 may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by
- 19 any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or
- 20 capturing.
- 21          (9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,
- 22 including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves;
- 23 ~~however, the open season on mourning doves is restricted to the open season on upland game birds as defined~~
- 24 ~~in subsection (15).~~
- 25          (10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
- 26 other animal not otherwise legally classified by statute or regulation of this state.
- 27          (11) "Open season" means the time during which game birds, fish, and game and fur-bearing animals
- 28 may be lawfully taken.
- 29          (12) "Person" means individuals, associations, partnerships, and corporations.
- 30          (13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

1 (14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state  
 2 by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove  
 3 wildlife from any of these devices.

4 (15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
 5 chicken, sage hen or sage grouse, ruffed grouse, ~~quail~~, ring-necked pheasant, Hungarian partridge, ptarmigan,  
 6 wild turkey, and chukar partridge.

7 (16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."  
 8

9 **Section 2.** Section 87-3-111, MCA, is amended to read:

10 **"87-3-111. (Temporary) Unlawful to buy, sell, possess, or transport fish or game -- exceptions**  
 11 **-- penalties.** (1) It is unlawful for a person to purchase, sell, offer to sell, possess, ship, or transport all or part  
 12 of any game fish, upland game bird, migratory game bird, game animal, or fur-bearing animal or part thereof that  
 13 is protected by the laws of this state, whether belonging to the same or a different species from that native to  
 14 the state TAKEN IN MONTANA OR OUTSIDE of Montana, except as specifically permitted by the laws of this state.

15 (2) The provisions of this section do not prohibit:

16 (a) the possession or transportation within the state of all or part of any legally taken fish, upland game  
 17 bird, migratory game bird, game animal, or fur-bearing animal or part thereof;

18 (b) the sale, purchase, or transportation of hides, heads, or mounts of lawfully killed upland game birds,  
 19 migratory game birds, game fish, fur-bearing animals, or game animals, except that the sale or purchase of a  
 20 hide, head, or mount of a grizzly bear is prohibited, except as provided in 87-3-110;

21 (c) the possession, transportation, sale, or purchase of naturally shed antlers or the antlers with a skull  
 22 or portion of a skull attached from a game animal that has died from natural causes and that has not been  
 23 unlawfully or accidentally killed;

24 (d) the possession, transportation, sale, or purchase of the bones of an elk, antelope, moose, or deer  
 25 that has been lawfully killed or that has died of natural causes; ~~or~~

26 (e) the donation and sale of paddlefish roe as caviar under the provisions of 87-4-601-; ~~or~~

27 (f) the possession, transportation, sale or purchase of captive-reared migratory waterfowl.

28 (3) It is unlawful for a person to possess or transport live fish away from the body of water in which the  
 29 fish were taken, except:

30 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted in the laws of this state;

1 (b) for fish species approved by the commission for use as live bait and subject to any restrictions  
2 imposed by the commission; or

3 (c) within and along the boundaries of the eastern Montana fishing district, as established by the  
4 1994-95 commission regulations.

5 (4) A person violating any of the provisions of this section is guilty of a misdemeanor and upon  
6 conviction shall be punished as provided in 87-1-102. (Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.)

7 **87-3-111. (Effective July 1, 2003) Unlawful to buy, sell, possess, or transport fish or game --**  
8 **exceptions -- penalties.** (1) It is unlawful for a person to purchase, sell, offer to sell, possess, ship, or transport  
9 all or part of any game fish, upland game bird, migratory game bird, game animal, or fur-bearing animal ~~or part~~  
10 ~~thereof that is~~ protected by the laws of this state, whether ~~belonging to the same or a different species from that~~  
11 ~~native to the state~~ TAKEN IN MONTANA OR OUTSIDE of Montana, except as specifically permitted by the laws of this  
12 state.

13 (2) The provisions of this section do not prohibit:

14 (a) the possession or transportation within the state of all or part of any legally taken fish, upland game  
15 bird, migratory game bird, game animal, or fur-bearing animal ~~or part thereof~~;

16 (b) the sale, purchase, or transportation of hides, heads, or mounts of lawfully killed upland game birds,  
17 migratory game birds, game fish, fur-bearing animals, or game animals, except that the sale or purchase of a  
18 hide, head, or mount of a grizzly bear is prohibited, except as provided in 87-3-110;

19 (c) the possession, transportation, sale, or purchase of naturally shed antlers or the antlers with a skull  
20 or portion of a skull attached from a game animal that has died from natural causes and that has not been  
21 unlawfully or accidentally killed; ~~or~~

22 (d) the possession, transportation, sale, or purchase of the bones of an elk or deer that has been  
23 lawfully killed or that has died of natural causes; ~~or~~

24 (e) the possession, transportation, sale, or purchase of captive-reared migratory waterfowl.

25 (3) It is unlawful for a person to possess or transport live fish away from the body of water in which the  
26 fish were taken, except:

27 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted in the laws of this state;

28 (b) for fish species approved by the commission for use as live bait and subject to any restrictions  
29 imposed by the commission; or

30 (c) within and along the boundaries of the eastern Montana fishing district, as established by the

1 1994-95 commission regulations.

2 (4) A person violating any of the provisions of this section is guilty of a misdemeanor and upon  
3 conviction shall be punished as provided in 87-1-102."

4

5 **Section 3.** Section 87-3-402, MCA, is amended to read:

6 **"87-3-402. Unlawful to violate closed season on certain game birds.** It is unlawful for any person  
7 to hunt or attempt to hunt ~~any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant),~~  
8 ~~Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie chicken,~~  
9 ~~ruffed grouse, ptarmigan, or wild turkey~~ an upland game bird until the commission provides an open season on  
10 ~~any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant), Hungarian partridge, chukar~~  
11 ~~partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or~~  
12 ~~wild turkey~~ that upland game bird. The open season on mourning doves is restricted to the open season on  
13 upland game birds."

14

15 **Section 4.** Section 87-4-503, MCA, is amended to read:

16 **"87-4-503. Fees.** Fees for shooting preserve licenses or permits ~~shall~~ must be ~~\$50 per~~ \$100 for each  
17 year for the first ~~160~~ 320 acres of shooting preserve area, plus ~~50 cents~~ \$40 ~~\$20 per~~ for each year for each  
18 additional 160 ACRES AND ANY FRACTION OF 160 ACRES ~~160 acres or parts thereof~~ acre."

19

20 **Section 5.** Section 87-4-522, MCA, is amended to read:

21 **"87-4-522. Game hunted in preserve.** (1) Game ~~which~~ that may be hunted under this part ~~shall~~ must  
22 be confined to artificially propagated ring-necked pheasants with no color mutations, ~~quail,~~ chukar partridges,  
23 ~~turkeys, MERRIAM'S TURKEYS, Hungarian partridges,~~ and ~~such~~ other species as the authorized by the department  
24 may add from time to time.

25 (2) A minimum ~~number of stock of 100 birds of each species to be hunted on a~~ CUMULATIVE OF ALL  
26 SPECIES AUTHORIZED FOR AN INDIVIDUAL shooting preserve ~~shall~~ must be released each year on the licensed area  
27 during the shooting preserve season. ~~The minimum number of stock of each species to be released shall be~~  
28 ~~determined by the department before the commencement of the season.~~

29 (3) Artificially propagated upland game birds released on a shooting preserve during the shooting  
30 preserve season must be at least 14 weeks of age and must be marked prior to release in a manner that

1 distinguishes them from wild upland game birds."

2

3 **Section 6.** Section 87-4-524, MCA, is amended to read:

4 **"87-4-524. Preserve operators to establish shooting restrictions.** (1) Except for required  
5 compliance with the game recovery restriction provided in 87-4-523, shooting preserve operators licensed prior  
6 to ~~the effective date of this act~~ JULY 1, 2003, may establish their own shooting limitations and restrictions on  
7 the age, sex, and number of each species that may be taken by each person.

8 (2) The department may impose restrictions on a shooting preserve license issued after ~~the effective~~  
9 ~~date of this act~~ JULY 1, 2003, in an area that supports existing native upland game bird species if the department  
10 determines that the restrictions are necessary to protect native populations. The restrictions must be based on  
11 sound biological principles."

12

13 **Section 7.** Section 87-4-526, MCA, is amended to read:

14 **"87-4-526. ~~Registration of shooters~~ Shooting preserve records.** (1) Each shooting preserve operator  
15 shall maintain a registration book listing:

16 (a) the names, addresses, and ~~hunting license~~ automated licensing system numbers of all shooters;

17 (b) the date on which ~~they~~ the shooters hunted;

18 (c) the amount of game and the species taken; ~~and~~

19 (d) the tag numbers affixed to each carcass; ~~and~~

20 (e) the number of wild upland game birds that were taken and tagged.

21 (2) An accurate record ~~likewise~~ must be maintained of the total number, by species, of game raised  
22 ~~and/or~~ or purchased and the date and number of all species released. These records ~~shall~~ must be open to  
23 inspection by a delegated representative of the department at any reasonable time and ~~shall~~ must be the basis  
24 upon which the game-recovery limits in 87-4-523 ~~shall~~ must be determined."

25

26 **Section 8.** Section 87-4-901, MCA, is amended to read:

27 **"87-4-901. Definitions.** For purposes of this part, the following definitions apply:

28 (1) "Game bird farm" means an enclosed area upon which game birds may be kept for purposes of  
29 obtaining, rearing in captivity, keeping, and selling game birds or parts of game birds as authorized under this  
30 part.

